

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

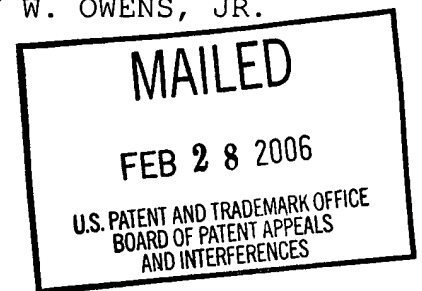
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN J. BURNS, SMITA P. EDMONDS and JERRY W. OWENS, JR.

Appeal No. 2006-0733
Application No. 09/576,720

ON BRIEF



Before KIMLIN, WALTZ and TIMM, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 25-32.

Claim 25 is illustrative:

25. A nonwoven composite structure comprising: a plurality of layers of nonwoven fiber material comprising a plurality of intermingled staple fibers, at least a portion of said layers of nonwoven fiber material being bonded together by a plurality of discrete layers of adhesive extending in substantially sandwiching relation between said layers of nonwoven fiber material, the nonwoven composite being characterized by a thickness of not less than about 8 mm and being further characterized by a density of not less than about 0.1 grams per cubic centimeter said layers of nonwoven fiber material being further bonded together by the forced extension of fiber elements substantially across at

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least two or more of said layers of adhesive such that a portion of the fiber elements in adjacent layers of the nonwoven fiber material are intermingled with one another and with said adhesive and mechanical entanglement is established between three or more of said layers of nonwoven fiber material.

The examiner relies upon the following references as evidence of obviousness:

Brooks et al. (Brooks)	3,683,921	Aug. 15, 1972
Stein et al. (Stein)	6,287,407	Sep. 11, 2001

Appellants' claimed invention is directed to a nonwoven composite structure comprising a plurality of nonwoven fiber layers which sandwich an adhesive layer. In addition to being bonded by the adhesive layer, the fibers of the nonwoven material are further bonded by the forced extension of fiber elements across the adhesive layer in order to effect intermingling of the fibers of adjacent layers.

Appealed claims 25-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stein in view of Brooks.

Appellants do not present arguments that are reasonably specific to any particular claim on appeal. Accordingly, all the appealed claims stand or fall together.

We have thoroughly reviewed each of appellants' arguments for patentability. However, we are in complete agreement with

the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of Section 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejection for essentially for those reasons expressed in the answer, and we add the following for emphasis only.

Appellants do not dispute the examiner's factual findings with respect to Stein, the primary reference. It is appellants' sole argument that Stein does not teach or suggest the claimed intermingling of fibers of adjacent layers but, rather, teaches against such intermingling. Appellants point out that the needles of Stein push unmixed pure fibers to the reverse side of the composite structure, and appellants submit that "if the fibers in the adjacent layers of Stein et al. were intermingled (i.e. blended) with one another across the layer boundary the colors would be mixed thereby reducing the contrast expressly against the teachings of the reference and fundamentally changing the principle of operation" (page 5 of brief, last sentence). Appellants maintain that since the primary reference teaches expressly against the presently claimed invention, a prima facie case of obviousness has not been established.

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We do not subscribe to appellants' position since we concur with the examiner that figure 1 of Stein depicts fibers of nonwoven fabric 1 intermingling with fibers of nonwoven fabric 2. We agree with the examiner that the appealed claims, contrary to the implication of appellants' argument, do not require that the fibers of the adjacent layers are uniformly blended together, nor do the claims preclude the creation of a pattern on the surface of the composite structure. As explained by the examiner, the appealed claims do not define how the fibers are mixed together but only require that the fibers of different layers be intermingled. Accordingly, appellants' arguments are not commensurate in scope with the degree of protection sought by the appealed claims.

In conclusion, based on the foregoing and the reasons well-stated by the examiner, the examiner's decision rejecting the appealed claims is affirmed.

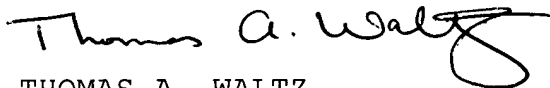
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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a)(1)(iv).

AFFIRMED



EDWARD C. KIMLIN)
Administrative Patent Judge)



THOMAS A. WALTZ)
Administrative Patent Judge)

BOARD OF PATENT
APPEALS AND
INTERFERENCES



CATHERINE TIMM)
Administrative Patent Judge)

ECK:hh

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